

Article 5 – Application and Notification Generally

25.05.01 – Applicability of This Article; Exceptions

The provisions of this Article apply to applications for all procedures, approvals, and permits provided for in this Chapter except:

1. Properties divided between the City and County as provided in Section 25.02.03;
2. Zoning of Annexed Land as provided in Section 25.02.04;
3. Map and Text Amendments as provided in Sections 25.06.01 and 25.06.02, respectively;
4. Administrative Interpretations as provided in Section 25.06.05;
5. Sign Permits as provided in Section 25.18.08, but not including sign approvals by the Sign Review Board;
6. Temporary Use Permits as provided in Section 25.09.04;
7. Occupancy Permits and Temporary Occupancy Permits as provided in Sections 25.07.10 and 25.07.11;
8. Certificates of Approval in Historic Districts as provided in Section 25.07.12;
9. Additional Permits and Approvals as provided in Section 25.07.13;
10. Waivers for Satellite Earth Station Antennas and Amateur Service Communication as provided in Section 25.09.08.e.1 and 2; and
11. Applications for Subdivision under Article 21.

25.05.02 – Applications

- a. *Authority to File* – The following persons may file an application under the provisions of this Chapter:
 1. The owner of record of the subject property;
 2. An authorized agent of the owner with written authorization to act on the owner's behalf; and

3. A person who has a financial or fiduciary interest in the subject property and/or a contract purchaser with written authorization by the owner that said person is authorized to act on the owner's behalf.

b. *Applications*

1. *Forms* - Applications must be submitted to the Chief of Planning or Chief of Inspection Services, as applicable, on forms provided by the Chief of Planning, and contain such information as may be required.
2. *Completeness of Submission* – If the application is incomplete, the Chief of Planning or Chief of Inspection Services, as applicable, must advise the applicant in writing as to the information needed to complete the application. In such case, the Chief of Planning may return the incomplete application or retain the application and set a date by which the missing information must be provided.
3. *Acceptance* – An application is not deemed accepted until all submission requirements are met. Acceptance of an application does not constitute any indication of approval.
4. *Fees* – Each application must be accompanied by a fee as determined by resolution of the Mayor and Council.

25.05.03 – Public Notifications

a. *General Notice Requirements*

1. All notices required under this Chapter must comply with the provisions of this Chapter and any greater notice requirements imposed by State law, if applicable; and
2. Unless otherwise specified in this Chapter, all notices must:
 - (a) Identify the date, time, and place of any scheduled public hearing or meeting;
 - (b) If applicable, describe the property involved in the application by street and street number or, if no street name or number is available, by another general location description;
 - (c) Indicate the nature, scope, and purpose of the application;
 - (d) Indicate how interested parties may be heard or otherwise submit their comments on the application; and

- (e) Indicate where additional information on the matter may be obtained.
- b. *Newspaper Notice* – Where required, notice shall be published in a newspaper of general circulation in accordance with this Chapter or State law, as applicable.
- c. *Mailings*
 - 1. The Chief of Planning must provide written or mailed notification of the following:
 - (a) The filing and acceptance of a completed application;
 - (b) A scheduled meeting or hearing on an application;
 - (c) A decision of an Approving Authority on an application in accordance with 25.05.06; and
 - (d) Such additional notice as deemed appropriate.
 - 2. The Chief of Planning must:
 - (a) Prepare a list, compiled from the current tax assessment, of all owners and their current addresses of all properties located within at least 500 feet of the boundaries of the subject property, unless another notification area is specified within this Chapter;
 - (b) Mail notice, by first class mail, to each owner on said list and to the resident or tenant of each property; and
 - (c) Mail notice, by first class mail, to civic associations and home-owners associations within applicable to or near the subject property.
 - 3. Depending on the scope of the proposed development, the Chief of Planning may determine if a greater area for receipt of notice is necessary in order to assure adequate public awareness of the proposed development.
- d. *Signs* – Except as otherwise provided, signs must be posted in accordance with the following provisions:
 - 1. *Sign to be Furnished by the City* – The required sign(s) will be prepared and furnished to the applicant by the Chief of Planning within two (2) business days after the filing of the complete application, unless otherwise specified in this Chapter.

2. *Date of Posting* – Within three (3) days after receiving the sign from the City, the applicant must erect and maintain a sign on the property that is the subject of the application.
3. *Location of Sign* – The required sign must be erected by the applicant as follows:
 - (a) Within ten feet (10') of each boundary line that abuts a public or private road or street. If the property boundary line is more than 250 feet long, one (1) sign is required every 250 feet.
 - (b) If no public road abuts thereon, the sign must be placed facing in such manner as may be most readily seen by the public.
 - (c) For any property that abuts a limited access highway, the sign must be placed at the principal entrance to the property.
4. *Sign to be Maintained until Decision* – Any sign erected as required herein must be maintained and its content updated, at all times by the applicant until final action by the Approving Authority on the application to which it pertains, and thereafter must be removed ~~in accordance with Section 25.18.10.c.~~ within seven (7) days from the final action.
5. *Unlawful to Remove or Tamper with Sign* – It is unlawful for any person to remove or tamper with any sign erected under this Section during the period it is required to be maintained. Early removal or tampering is subject to the penalties established in Article 19 of this Chapter.
6. *Affidavit Required*
 - (a) On the day of the final hearing on any application the applicant must file an affidavit stating that the sign required by this Section was continuously maintained in accordance with these requirements through the date of the last hearing on such application.
 - (b) If such sign was not continuously maintained, such affidavit will be sufficient, and subsection 25.05.03.d.6(a), immediately above, is deemed satisfied, if such affidavit states that following the erection of such sign:
 - (i) The property was inspected at least once per week, and that on each and every occasion through the date of the affidavit such sign was found to be in place; or
 - (ii) In the event that such sign was damaged, destroyed, or removed, that such sign was repaired or replaced within five (5) days of the

inspection which resulted in discovery of the damage to, or destruction or removal of such sign.

e. *Additional Notice*

1. Additional notice may be provided by the Chief of Planning through other methods of communication ~~that are best~~ suited to increase awareness of the application in the communities, including but not limited to, website postings and listserv e-mails.
2. These additional notices are expressly not jurisdictional as ~~stated~~ provided in Section 25.05.10.

25.05.04 – Modification of Pending Application

- a. Modification to a pending application for approval may only be made after consultation with the Chief of Planning and in compliance with other requirements of this Chapter.
- b. Notwithstanding the provisions of “a”, above, if the project requires action by the Mayor and Council, Planning Commission, Board of Appeals, Historic District Commission, or Sign Review Board, no modification to the proposal can be offered by the applicant after the staff report has been issued, but in no event later than seven (7) days prior to the meeting at which the application will be considered by the Approving Authority. Nothing herein prevents the amendment of an application after the meeting of the Approving Authority.

25.05.05 – Access to Application Files

- a. All application files required under this Chapter in the custody of the City are open to public inspection during regular office hours.
- b. Application files must not be removed from the office in which they are maintained, except by officials and employees of the City.
- c. Copies of material in the files will be provided upon payment of copying charges in accordance with City policy or may be provided electronically upon request.

25.05.06 – Notification of Decision

- a. Notice of all decisions by any of the Approving Authorities must be provided by the Approving Authority, or the clerk thereto, within ten (10) days after the decision is rendered via written notice by first class mail to the applicant or petitioner and to any other party of record, unless such party requests an e-mail notification in lieu of first class mailing.

- b. A copy of the notification must be made a part of the official record by the Approving Authority or the clerk of the Approving Authority.
- c. The time limitation for appeals will run from the date of the letter providing the notification of the decision.

25.05.07 – Changes to Approved Projects

- a. *Application Required* – Except as otherwise provided, an application to change any previously approved ~~project~~ application must be filed with the Chief of Planning, or the Chief of Inspection Services where approval of the Sign Review Board is involved, in accordance with the provisions of this Article.
- b. *Minor Changes to Approved ~~Projects~~ Applications*
 - 1. Any application for a change which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Planning, or the Chief of Inspection Services where approval of the Sign Review Board is involved. Examples of minor changes include, but are not limited to, the following:
 - (a) Substitution of landscaping material;
 - (b) Substitution of building materials or other architectural elements; or
 - (c) The movement of proposed aspects of a plan up to two ~~inches~~ feet (2'), as long as the deviation does not require a variance from the base zone's ~~dimensional~~ development requirements;.
 - 2. The Chief of Planning or Chief of Inspection Services, as applicable, may seek the input of the applicable Approving Authority to make a determination whether the change is minor;.
 - 3. Notice is not required prior to approval of a minor change; ~~and~~.
 - 4. Minor changes ~~are deemed to be an administrative amendment to an approved application and are not subject to the~~ may be approved by the Chief of Planning and do not require notice under the provisions of Section 25.05.03 or Article 7. Notice is not required for approval of a minor change.
- c. *Major Changes to Approved Projects*
 - 1. Where the Chief of Planning determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed

and approved by the original Approving Authority as an amendment to the original approval;~~and.~~

2. An application for a significant change is subject to such notice and procedural requirements as set forth in Articles 5, 6, and 7.
3. Amendments approved by the Planning Commission are limited to the substance or area encompassed by the amendment application and will not affect other aspects of the approved application without the consent of the application. Nothing, however, shall preclude the Planning Commission from considering all aspects or areas of the approved development in determining whether or not the requested amendment is appropriate.
- d. *Substantial Changes Requiring a New Application* – Where, in the opinion of the Chief of Planning, the requested change to an approved ~~project~~ application is so extensive as to amount to a comprehensive change to more than 50% of the project area or to otherwise change the essential character and impact of the approval, such change may not be made by way of an amendment to the original approval, but rather requires the filing of an entirely new application for approval.

25.05.08 – Extension of ~~Validity~~ Implementation Period

- a. ~~The validity period of an approval under this Chapter~~ date by which activity pursuant to an approval must commence in order to avoid expiration of the approval may be extended only when all of the following conditions exist:
 1. The provisions of this Chapter ~~must~~ expressly allow the extension;
 2. An extension request ~~must be~~ is filed prior to the expiration of the approval; and
 3. The extension request ~~must be~~ is in writing and includes justification.
- b. Unless otherwise noted, authority to grant extensions of time shall rest with the Approving Authority that granted the original approval being extended.
- c. Extensions may be granted only upon good cause. In determining whether good cause has been shown, the ~~Mayor and Council~~ Approving Authority must consider the actions taken by the applicant to diligently pursue implementation of the approval, including but not limited to execution of required documents and pursuing other required approvals. No more than one (1) extension can be granted for reasons due primarily to market conditions or financial difficulties.
- d. An extension of the ~~validity~~ implementation period of an approval does not allow any change from the ~~procedure applicable to~~ conditions of the approval for which the extension is requested.

25.05.09 – Appeals

Any party of record aggrieved by a decision of any Approving Authority may appeal that decision in accordance with the applicable provisions for that Approving Authority as set forth in Article 4 of this Chapter.

25.05.10 – Certain Defects Not Jurisdictional

Failure to comply with any of the requirements of this Article 5, except for those requirements imposed by State law, is not a jurisdictional defect.